

CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 1999-31

Being a by-law to authorize an agreement between the Corporation of the Town of Amherstburg and John G. Hreno Architect Inc.

WHEREAS Council of the Corporation of the Town of Amherstburg is desirous of proceeding with an Addition and Renovations to the Police Building and;

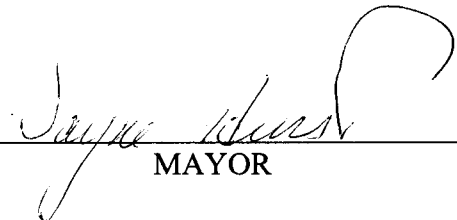
AND WHEREAS an architect is necessary to design and manage the project.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF

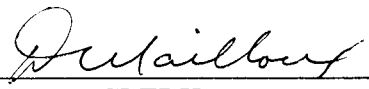
THE TOWN OF AMHERSTBURG HEREBY ENACTS AS FOLLOWS:

1. That the Town of Amherstburg and John G. Hreno Architect Inc. enter into an agreement (attached hereto) for the provision of design and managing service for the addition to and renovation of the Police Building.
2. That Mayor and Clerk be, and they are hereby authorized and instructed to execute the said agreement and to affix the corporate seal thereto.
3. That this by-law shall come into force and take effect on the date of final passage thereof.

Passed this 25th day of May 1999.



MAYOR



CLERK

1st. Reading: May 25, 1999

2nd Reading: May 25, 1999

3rd Reading: May 25, 1999

Document Six

Architectural Institute of British Columbia

Alberta Association of Architects

Saskatchewan Association of Architects

Manitoba Association of Architects

Ontario Association of Architects

Ordre des architectes du Québec

Architects' Association of New Brunswick

Nova Scotia Association of Architects

Architects Association of Prince Edward Island

Newfoundland Association of Architects



In partnership with:
The Royal Architectural Institute of Canada

Canadian Standard Form of Agreement between Client and Architect

DOCUMENT SIX

1997 Edition

The National Practice Program (NPP) is a partnership between the ten Provincial Associations of Architecture and the Royal Architectural Institute of Canada (RAIC).

This document has been developed by the NPP on behalf of the architectural profession in Canada, represented by the following member associations:

Architectural Institute of British Columbia
Alberta Association of Architects
Saskatchewan Association of Architects
Manitoba Association of Architects
Ontario Association of Architects
Ordre des architectes du Québec
Architects' Association of New Brunswick
Nova Scotia Association of Architects
Architects' Association of Prince Edward
Island
Newfoundland Association of Architects
Royal Architectural Institute of Canada

Enquiries on the application and use of this document should be directed to the appropriate Provincial Association of Architecture.

Suggestions on the development of standard contract documents can be forwarded in writing to:

National Practice Program
c/o Royal Architectural Institute of Canada
Suite 330, 55 Murray Street
Ottawa, Ontario
K1N 5M3

Copyright 1997.
Must not be copied in whole or in part without the written permission of NPP.

Certain provisions of this document have been derived, with modifications, from AIA Document B141 copyright 1987 by the American Institute of Architects. All rights reserved. AIA copyrighted material has been reproduced with permission of the American Institute of Architects under permission number 83073. Further reproduction is prohibited.

Contents

Agreement Between Client and Architect

1. **Definitions**
2. **Architect's Responsibilities**
 - 2.1 ARCHITECT'S BASIC SERVICES
 - 2.2 SCHEMATIC DESIGN PHASE
 - 2.3 DESIGN DEVELOPMENT PHASE
 - 2.4 CONSTRUCTION DOCUMENTS PHASE
 - 2.5 BIDDING OR NEGOTIATION PHASE
 - 2.6 CONSTRUCTION PHASE — CONTRACT ADMINISTRATION
 - 2.7 CONSTRUCTION BUDGET AND CONSTRUCTION COST ESTIMATES
 - 2.8 ADJUSTMENT OF CONSTRUCTION BUDGET
 - 2.9 CERTIFICATE FOR PAYMENT
3. **Client's Responsibilities**
4. **Payments To The Architect**
 - 4.1 PAYMENTS
 - 4.2 DIRECT PERSONNEL EXPENSE
 - 4.3 REIMBURSABLE EXPENSES
 - 4.4 ARCHITECT'S RIGHT TO STOP RENDERING SERVICES
 - 4.5 PERCENTAGE-BASED FEE
 - 4.6 FEE FOR ADDITIONAL SERVICES
 - 4.7 CHANGES AND ADJUSTMENTS
 - 4.8 PROJECT SUSPENSION OR ABANDONMENT
 - 4.9 TAXES
 - 4.10 ACCOUNTING RECORDS
5. **General Conditions**
 - 5.1 COPYRIGHT
 - 5.2 USE OF DOCUMENTS
 - 5.3 PROJECT IDENTIFICATION
 - 5.4 DISPUTE RESOLUTION
 - 5.5 LIABILITY OF THE ARCHITECT
 - 5.6 TOXIC OR HAZARDOUS SUBSTANCES OR MATERIALS
 - 5.7 TERMINATION
 - 5.8 LAW GOVERNING THIS AGREEMENT
 - 5.9 SUCCESSORS AND ASSIGNS
 - 5.10 EXTENT OF AGREEMENT
6. **Other Conditions**
 - Schedule A Fees and Reimbursable Expenses
 - Schedule B Additional Services

WHEREAS the Commission of the ...

Canadian Standard Form of Agreement Between Client and Architect

1997 Edition

Agreement

made as of the 26th day of April in the year of Nineteen hundred & ninety-nine (1999).

Between the Client:

(Include name and address)

The Corporation of the Town of Amherstburg
P.O. Box 159
271 Sandwich St. South
Amherstburg, Ontario N9V 2Z3

and the Architect:

(Include name and address)

John G. Hreno Architect Inc.
568 Chatham St. E.
Windsor, Ontario N9A 2X1

For the following Project:

(Include detailed description of Project location and scope)

Amherstburg Police Station
Addition & Renovations

The Client and the Architect agree as set forth in the following terms and conditions.

1

Definitions

In this Agreement the following definitions apply:

- | | | |
|----------------------------|-------|--|
| 1.1
Construction Budget | 1.1.1 | The Construction Budget is the Client's budget for the Construction Cost including contingencies for cost increases. |
| 1.2
Construction Cost | 1.2.1 | Construction Cost means the contract price(s) of all Project elements designed or specified by or on behalf of the Architect, permit fees, contingency amounts, and all applicable taxes including such value added taxes as the GST, whether recoverable or not. Where there is no contract price for all or part of the Project, the Construction Cost shall be the estimated cost of construction as determined by Architect, at market rates at the anticipated time of construction. Construction Cost does not include the compensation of the Architect, the Architect's consultants, the land cost, or other costs which are the responsibility of the Client. |
| | 1.2.2 | In the event that the Client furnishes labour or material below market cost or old materials are re-used, the Construction Cost for purposes of establishing the Architect's fee is the cost of all materials and labour necessary to complete the Work as if all materials had been new and as if all labour had been paid for at market prices at the time of construction or, in the event that the construction does not proceed, at existing market prices at the anticipated time of construction. |
| 1.3
Contract | 1.3.1 | The Contract is the undertaking between the Client and the Contractor to perform their respective duties, responsibilities and obligations as described in the Contract Documents. |
| 1.4
Contract Documents | 1.4.1 | The Contract Documents consist of the executed agreement between the Client and the Contractor, the general conditions, the drawings, the specifications and all the other documents identified in the agreement as Contract Documents. |
| 1.5
Contractor | 1.5.1 | The Contractor is the person or entity contracting with the Client to provide labour, materials and equipment for the execution of the Work. |
| 1.6
General Review | 1.6.1 | General Review means the visits to the Place of Work at intervals appropriate to the stage of the construction that the Architect considers necessary to become familiar with the progress and quality of the Work and to determine that the Work is in general conformity with the Contract Documents. |
| 1.7
Place of the Work | 1.7.1 | The Place of the Work is the designated site or location of the Work identified in the Contract Documents. |
| 1.8
Project | 1.8.1 | The Project as described in this Agreement means the total construction contemplated of which the Work may be the whole or a part. |
| 1.9
Project Budget | 1.9.1 | The Project Budget is the Client's estimated total expenditure for the entire Project. It includes, but is not limited to, the Construction Budget, professional fees, costs of land, rights of way, and all other costs to the Client for the Project. |

A Subcontractor is a person or entity having a direct contract with the Contractor to perform a part or parts of the Work or to supply products worked to a special design for the Work.

1.10.1

1.10
Subcontractor

Substantial Performance of the Work is as defined in the lien legislation applicable to the Place of the Work. If such legislation is not in force or does not contain such definition, Substantial Performance of the Work shall have been reached when the Work is ready for use or is being used for the purpose intended and is so certified by the Architect.

1.11.1

1.11
Substantial
Performance
of the Work

A Supplier is a person or entity having a direct contract with the Contractor to supply products not worked to a special design for the Work.

1.12.1

1.12
Supplier

The Work means the total construction and related services required by the Contract Documents.

1.13.1

1.13
Work

2

Architect's Responsibilities

- 2.1 Architect's Basic Services
- 2.1.1 The Architect's basic services consist of those services performed by the Architect, the Architect's employees, and the Architect's consultants as set forth in Articles 2.1 to 2.9 of this Agreement and any other services included in Article 6. They include the provision of normal structural, mechanical and electrical engineering services by professional engineers.
- 2.1.2 The Architect's basic services include the co-ordination required to integrate all parts of the services.
- 2.2 Schematic Design Phase
- The Architect shall:
- 2.2.1 review the program of requirements furnished by the Client and the characteristics of the site;
- 2.2.2 review and comment on the Client's Construction Budget in relation to the Client's program of requirements;
- 2.2.3 review with the Client alternative approaches to the design of the Project and the types of construction contracts;
- 2.2.4 review applicable statutes, regulations, codes and by-laws and where necessary review the same with the authorities having jurisdiction;
- 2.2.5 based on the mutually agreed upon program of requirements, schedule and Construction Budget, prepare for the Client's review and approval, schematic design documents to illustrate the scale and character of the Project and how the parts of the Project functionally relate to each other; and
- 2.2.6 prepare and submit to the Client a Construction Cost estimate based on current area or volume unit costs.
- 2.3 Design Development Phase
- Based on the Client approved schematic design documents and Construction Cost estimate, the Architect shall:
- 2.3.1 prepare for the Client's review and approval, design development documents consisting of drawings and other documents appropriate to the size of the Project, to describe the size and character of the entire Project including the architectural, structural, mechanical, and electrical systems, materials and such other elements as may be appropriate;
- 2.3.2 prepare and submit to the Client for approval a revised Construction Cost estimate; and
- 2.3.3 continue to review applicable statutes, regulations, codes and by laws as the design of the Project is developed.
- 2.4 Construction Documents Phase
- Based on the Client approved design development documents and Construction Cost estimate, the Architect shall:
- 2.4.1 prepare, for the Client's review and approval, construction documents consisting of drawings and specifications setting forth in detail the requirements for the construction of the Project;
- 2.4.2 advise the Client of any adjustments to the Construction Cost estimate, including adjustments indicated by changes in requirements and general market conditions;

obtain instructions from and advise the Client on the preparation of the necessary bidding information, bidding forms, conditions of the contract and the form of contract between the Client and the Contractor; and 2.4.3

review statutes, regulations, codes and by-laws applicable to the design and where necessary review the same with the authorities having jurisdiction in order that the Client may apply for and obtain the consents, approvals, licences and permits necessary for the Project. 2.4.4

Following the Client's approval of the construction documents and the latest Construction Cost estimate, the Architect shall assist and advise the Client in obtaining bids or negotiated proposals and in awarding and preparing contracts for construction. 2.5.1 2.5 Bidding or Negotiation Phase

The extent of the duties, responsibilities and limitations of authority of the Architect as the Client's representative during construction shall be modified or extended only with the written consent of the Client and the Architect. 2.6.1 2.6 Construction Phase - Contract Administration

During the construction phase - contract administration, the Architect shall: 2.6.2

1. be a representative of the Client;
2. advise and consult with the Client;
3. have the authority to act on the Client's behalf to the extent provided in this Agreement and the Contract Documents;
4. have access to the Work at all times wherever it is in preparation or progress;
5. forward all instructions from the Client to the Contractor;
6. carry out the General Review of the Work;
7. examine, evaluate and report to the Client upon representative samples of the Work;
8. keep the Client informed of the progress and quality of the Work, and report to the Client defects and deficiencies in the Work observed during the course of the site reviews;
9. determine the amounts owing to the Contractor under the Contract based on the Architect's observations and evaluation of the Contractor's application(s) for payment;
10. issue certificates for payment in the value proportionate to the amount of the Contract, of work performed and products delivered to the Place of the Work;
11. in the first instance, interpret the requirements of the Contract Documents and make findings as to the performance thereunder by both the Client and Contractor;
12. render interpretations in written and graphic form as may be required with reasonable promptness on the written request of either the Client or the Contractor;
13. render written findings within a reasonable time, on all claims, disputes and other matters in question between the Client and the Contractor relating to the execution or performance of the Work or the interpretation of the Contract Documents;
14. render interpretations and findings consistent with the intent of and reasonably inferable from the Contract Documents; showing partiality to neither the Client nor the Contractor; but shall not be liable for the result of any interpretation or finding rendered in good faith in such capacity;

15. have the authority to reject work which does not conform to the Contract Documents, and whenever, in the Architect's opinion, it is necessary or advisable for the implementation of the intent of the Contract Documents, have the authority to require special inspection or testing of work, whether or not such work has been fabricated, installed or completed;
16. review and take other appropriate action with reasonable promptness upon such Contractor's submittals as shop drawings, product data, and samples, for conformance with the general design concept of the Work as provided in the Contract Documents;
17. prepare change orders and change directives for the Client's approval and signature in accordance with the Contract Documents;
18. have the authority to order minor adjustments in the Work which are consistent with the intent of the Contract Documents, when these do not involve an adjustment in the contract price or an extension of the contract time;
19. furnish supplemental instructions to the Contractor with reasonable promptness or in accordance with a schedule for such instructions agreed to by the Architect and the Contractor;
20. determine the date of Substantial Performance of the Work;
21. receive from the Contractor and forward to the Client for the Client's review the written warranties and related documents;
22. verify the validity of the Contractor's application for final payment and issue a certificate of final payment; and
23. prior to the end of the period of one year following the date of Substantial Performance of the Work, review any defects or deficiencies which have been reported or observed during that period, and notify the Contractor in writing of those items requiring attention by the Contractor to complete the Work in accordance with the Contract.

2.6.3 However, the Architect shall not:

1. be required to make exhaustive or continuous on-site reviews;
2. be responsible for the acts or omissions of the Contractor, Sub-Contractors, Suppliers or any other persons performing any of the Work, or for the failure of any of them to carry out the Work in accordance with the Contract Documents; and
3. have control, charge or supervision of, or responsibility for construction means, methods, techniques, sequences, or procedures or for safety precautions and programs required in connection with the Work.

2.7
Construction Budget
and Construction
Cost Estimates

- 2.7.1 The Architect shall review and comment on the Client's Construction Budget and shall prepare the Construction Cost estimates as set out in this Agreement.
- 2.7.2 Neither the Architect nor the Client has control over the cost of labour, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market, or negotiating conditions and therefore the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Construction Cost estimate.
- 2.7.3 Variance from the Construction Budget or Project Budget established under this Agreement shall not constitute grounds for the Client to withhold fees due to the Architect.

WHEREAS the Corporation of the Township of Andover has registered on the

<p>If the bidding or negotiation phase has not commenced within three months after the Architect submits the construction documents to the Client, the Construction Budget shall be adjusted to reflect changes in the general level of prices in the construction industry between the date of submission of the construction documents to the Client and the date on which bids or proposals are sought.</p>	2.8.1	2.8 Adjustment of Construction Budget
<p>If the lowest bona fide bid or lowest negotiated proposal exceeds the latest approved Construction Cost estimate by more than 15%, the Client shall:</p>	2.8.2	
<ol style="list-style-type: none">1. give written approval of an increase in the Construction Budget, or2. authorize rebidding or re-negotiating of the proposal, or3. co-operate with the Architect in revising the Project scope or quality as necessary to reduce the Construction Cost, or4. terminate this Agreement in accordance with paragraph 5.7.3 if the Project is abandoned.		
<p>If the Client chooses to proceed under 2.8.2.3, unless the excess is due to extraordinary market conditions, the Architect at no additional fee shall modify the construction documents or provide other services necessary to reduce the Construction Cost to within 15% of the latest approved Construction Cost estimate. The modification of the construction documents shall be the limit of the Architect's responsibility under 2.8.2.3, and having done so, the Architect shall be entitled to compensation in accordance with this Agreement, for all services performed, whether or not the construction phase is commenced.</p>	2.8.3	
<p>The issuance of a certificate for payment shall constitute a representation by the Architect to the Client, based on the Architect's General Review and on review of the Contractor's schedule of values and application for payment that: the Work has progressed to the value indicated; to the best of the Architect's knowledge, information and belief, the Work observed during the course of General Review is in general conformity with the Contract Documents; and that the Contractor is entitled to payment in the amount certified. Such certification is subject to:</p>	2.9.1	2.9 Certificate for Payment
<ol style="list-style-type: none">1. review and evaluation of the Work as it progresses for general conformity as provided in paragraphs 2.6.2.6 to .8;2. the results of any subsequent tests required by or performed under the Contract Documents;3. minor deviations from the Contract Documents being corrected prior to completion; and4. any specific qualifications stated in the certificate for payment.		
<p>The issuance of the certificate for payment shall not be a representation that the Architect has made any examination to ascertain how and for what purpose the Contractor has used the monies paid on account of the contract price, or that the Contractor has discharged the obligations imposed on him by law under the Workers' Compensation Act, or other applicable statute, non-compliance with which may render the Client personally liable for the Contractor's default.</p>	2.9.2	

Client's Responsibilities

The Client shall provide:

- 3.1.1 full information regarding the requirements for the Project including a program setting forth the Client's Project objectives, constraints, schedules, and criteria, including:
 1. spatial and functional requirements and relationships,
 2. flexibility and expandability,
 3. special equipment and systems, and
 4. site requirements;
- 3.1.2 a Construction Budget for the Project; and
- 3.1.3 information, surveys, reports and services as set out below, the accuracy and completeness of which the Architect shall be entitled to rely upon and such contracts for the provision of information, surveys, reports and services, whether arranged by the Client or the Architect, shall be considered direct contracts with Client unless explicitly provided otherwise:
 1. surveys describing physical characteristics, legal limitations and utility locations for the Project site, and a written legal description of the site and adjoining properties as necessary showing the following survey and legal information, as applicable: grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights of way; restrictions; easements; encroachments; zoning; deed restrictions; boundaries and contours of the site; locations, dimensions and data pertaining to existing buildings, other improvements, and trees; and information concerning utility services, both public and private, above and below grade, including inverts and depths;
 2. subsurface investigation and reports which include but are not limited to test borings, test pits, determination of soil bearing values, percolation tests, a list of and evaluations of toxic and hazardous substances and materials present at the Place of the Work, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional recommendations;
 3. reports and appropriate professional recommendations of specialist consultants when required by the Architect;
 4. air and water pollution tests, tests for toxic and hazardous substances and materials, structural, mechanical, chemical, and other laboratory and environmental tests, inspections, laboratory and field tests and reports as required by the Architect, the Architect's consultants, the authorities having jurisdiction or the Contract Documents; and
 5. all legal, accounting and insurance counselling services as may be necessary at any time for the Project, including such auditing services as the Client may require to verify the Contractor's applications for payment or to ascertain how or for what purpose the Contractor uses the monies paid by or on behalf of the Client.

The Client shall:

3.2

examine documents submitted by the Architect and give the Architect decisions and approvals as necessary; 3.2.1

obtain and pay the cost of all required consents, approvals, licences and permits from authorities having jurisdiction; 3.2.2

immediately notify the Architect in writing if the Client observes or otherwise becomes aware of any fault or defect in the Project or any nonconformity with the requirements of the Contract; 3.2.3

promptly fulfil the Client's responsibilities for the orderly progress of the Architect's services and of the Work; and 3.2.4

authorize in writing a person to act on the Client's behalf and define that person's scope of authority with respect to the Project when necessary. 3.2.5

4

Payments to the Architect

- 4.1 Payments
- 4.1.1 The Client shall pay professional fees and reimbursable expenses as set forth in Article 4 and Schedule A.
- 4.1.2 The initial payment as set forth in Schedule A is the minimum payment which the Client must pay the Architect under this Agreement.
- 4.1.3 Subsequent payments for the Architect's basic services shall be made monthly, and where applicable, shall be in proportion to services performed within each phase of the service.
- 4.1.4 Payments on account of additional services described in Article 6 and for reimbursable expenses shall be made monthly upon submittal of the Architect's invoice for services rendered or expenses incurred.
- 4.1.5 An invoice submitted by the Architect under this Agreement shall be paid by the Client within thirty days after submittal of the invoice to the Client.
- 4.1.6 An unpaid invoice shall bear interest at 5% per annum above the bank rate 30 days after the date that the Architect submits an invoice for fees, reimbursable expenses, and applicable taxes.
- 4.1.7 Bank rate means the bank rate established by the Bank of Canada as the minimum rate at which the Bank of Canada makes short term advances to the chartered banks.
- 4.1.8 No deductions shall be made by the Client from amounts payable to the Architect on account of penalty, liquidated damages, or other sums withheld from payments to Contractors, or on account of the cost of changes in the Work other than those for which the Architect is proven to be legally responsible or has agreed to pay.
- 4.2 Direct Personnel Expense
- 4.2.1 In Article 4 and Schedule A, direct personnel expense means the salary of the Architect's or the Architect's consultant's personnel engaged on the Project plus the cost of such mandatory and customary contributions and employee benefits as employment taxes and other statutory benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits.
- 4.3 Reimbursable Expenses
- 4.3.1 In Article 4 and Schedule A, reimbursable expenses include, but are not limited to, the following expenses incurred by the Architect, the Architect's employees and consultants in the interest of the Project plus the percentage of such actual expenditure for administrative services specified in Schedule A:
1. transportation in connection with the Project for authorized travel, e.g., for transportation, lodging and meals;
 2. communication and shipping, e.g., for long distance telephone calls and facsimile messages, courier service, postage and electronic conveyances;
 3. reproduction of plans, sketches, drawings, graphic representations, specifications and other documents;
 4. renderings, plotting of computer-generated drawings, models, and mock-ups specifically requested by the Client;
 5. fees, levies, duties or taxes for permits, licences or approvals from authorities having jurisdiction;

- 6. overtime services authorized in advance by the Client to the extent that the cost of such services exceeds normal direct personnel expenses;
- 7. additional insurance coverage or limits, including that of professional liability insurance, requested by the Client in excess of that normally carried by the Architect and the Architect's consultants.

If any invoice submitted by the Architect remains unpaid by the Client for sixty days or more from the date the invoice was submitted, then the Architect may give seven days' written notice to the Client that the Architect will stop rendering services.

4.4.1 4.4
Architect's Right to
Stop Rendering
Services

If within seven days of delivery of the notice in 4.4.1, the Client has not paid the Architect's invoice, or the Architect and the Client have not agreed in writing on terms for payment of the invoice, the Architect may stop rendering services on the Project, and in that event the Client shall not have any claim whatsoever against the Architect for any loss, cost, damage, or expense incurred or anticipated to be incurred by the Client as a result.

4.4.2

The rights of the Architect given by Article 4.4 are in addition to and not in substitution for any other rights the Architect may have under this Agreement or otherwise for non-payment of the Architect's invoices by the Client.

4.4.3

The basis for calculating the applicable portion of the fee for each phase of the Architect's basic services shall be as follows:

4.5.1

4.5
Percentage-Based
Fee

- 1. Schematic Design Phase: the mutually agreed Construction Budget at the commencement of the phase.
- 2. Design Development Phase: the approved Construction Cost estimate at the commencement of the phase.
- 3. Construction Documents Phase: the approved Construction Cost estimate at the commencement of the phase.
- 4. Bidding or Negotiation Phase: the approved Construction Cost estimate at the commencement of the phase.
- 5. Construction Phase - Contract Administration: the Construction Cost, including change orders and additional Project cost approved during the construction of the Work.

For the Architect's basic services relative to the portions of the Project that are designed but then deleted or otherwise not constructed, the fee for those portions of the Work shall be proportionate to the extent of such services in accordance with Article A2.3 and shall be based on the lowest bona fide bid or negotiated proposal or, if there is no such bid or negotiated proposal, the latest approved Construction Cost estimate.

4.5.2

For services in Schedule B and when revisions or additions are made to the program of requirements or previously approved documents prepared by the Architect and such revisions or additions require services beyond those already provided, the fee for such additional services shall be based on the rates in Article A3 of Schedule A or as otherwise mutually agreed with the Client.

4.6.1

4.6
Fee for Additional
Services

- 4.7 Changes and Adjustments
- 4.7.1 If the scope of the Project or of the Architect's basic services is changed, the fees shall be equitably adjusted.
- 4.7.2 If and to the extent that the contract time initially established in the Contract for construction is exceeded or extended through no fault of the Architect, fees for services required for such extended period of the contract administration shall be computed as set forth in Article A3 of Schedule A.
- 4.8 Project Suspension or Abandonment
- 4.8.1 If the Project is suspended or abandoned in whole or in part for more than a total of 60 days whether consecutive or not, the Architect shall be paid within 30 days of the date that an invoice is submitted for all services performed, together with reimbursable expenses then due and suspension expenses calculated in the same manner as termination expenses in paragraph 5.7.5. If the Project is resumed after being suspended or abandoned in whole or in part for more than a total of 60 days whether consecutive or not, the Architect's fee shall be equitably adjusted.
- 4.9 Taxes
- 4.9.1 In the event that new or additional taxes in respect of the services included in this Agreement are required by federal or provincial legislation after the Agreement is executed, the amount under this Agreement shall be adjusted to include such levies.
- 4.9.2 Fees and reimbursable expenses may be subject to such value added taxes as the Federal Goods and Services Tax. The Client shall pay to the Architect, together with and in addition to any fees and reimbursable expenses that become payable, any value added taxes that become payable in relation to the fees and reimbursable expenses as required by legislation.
- 4.10 Accounting Records
- 4.10.1 The Architect shall maintain, by generally accepted accounting methods, records of reimbursable expenses, of expenditures pertaining to the Architect's additional services and of services for which the fee is computed as a multiple of direct personnel expense. These records shall be available to the Client at mutually convenient times.

General Conditions

Copyright for the design and drawings prepared by or on behalf of the Architect belong to the Architect. Plans, sketches, drawings, graphic representations and specifications, including computer generated designs, are instruments of the Architect's service and shall remain the property of the Architect whether the Project for which they are made is executed or not.	5.1.1	5.1 Copyright
Submissions or distribution of the Architect's plans, sketches, drawings, graphic representations and specifications to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's reserved rights.	5.1.2	
The Client may retain copies, including reproducible copies, of plans, sketches, drawings, graphic representations and specifications for information and reference in connection with the Client's use and occupancy of the Project. Except for reference purposes, the plans, sketches, drawings, graphic representations and specifications shall not be used for additions or alterations to the Project or on any other project.	5.2.1	5.2 Use of Documents
As a condition precedent to the use of the plans, sketches, drawings, graphic representations and specifications for the Project, all fees and reimbursable expenses of the Architect are required to be paid in full.	5.2.2	
The Client shall be entitled to keep original models or architectural renderings the Client specifically commissioned.	5.2.3	
The Architect shall be entitled to sign the building by inscription or otherwise on a suitable and reasonably visible part of the permanent fabric of the building.	5.3.1	5.3 Project Identification
The Architect shall be entitled to include as part of the Contract Documents a provision to erect a sign identifying the Architect and the Architect's consultants on the Project site.	5.3.2	
For purposes of Article 5.4, "dispute" means a disagreement arising out of or in connection with this Agreement or in respect of any defined legal relationship associated with it or derived from it and includes any failure to reach agreement where an agreement is required.	5.4.1	5.4 Dispute Resolution
The parties shall make all reasonable efforts to resolve a dispute by amicable negotiations and agree to provide, on a without prejudice basis, frank, candid and timely disclosure of relevant facts, information and documents to facilitate these negotiations.	5.4.2	
If the parties have been unable to resolve a dispute, either party may, by written notice, require the appointment of a mediator in accordance with the latest edition at date of execution of this Agreement of the Rules for Mediation and Arbitration of Construction Disputes, CCDC Document 40, to assist the parties to reach agreement. Unless the parties agree otherwise, the mediated negotiations shall be conducted in accordance with those Rules as amended as follows:	5.4.3	

1. all references to "the Contract" are to be considered references to "this Agreement";
2. for references in CCDC 40 for Schedule; time; Extension of time period; and termination if no agreement; the time period shall be adjusted from "10 Working Days" to read "15 calendar days".

5.4.4 If the dispute has not been resolved within 15 calendar days after a mediator was appointed under paragraph 5.4.3, or within such further period agreed to by the parties, the mediator shall terminate the mediated negotiations by giving written notice.

5.4.5 All unresolved disputes shall be referred to and finally resolved by arbitration under the latest edition of the Rules for Mediation and Arbitration of Construction Disputes, CCDC Document 40 as amended as follows:

1. all references to "the Contract" are to be considered references to "the Agreement"; and
2. the applicable date referring to Substantial Performance of the Work does not apply.

5.4.6 Dispute resolution shall be conducted in the jurisdiction of the principal place of business of the Architect unless otherwise agreed.

5.5
Liability of the
Architect

5.5.1 For the purposes of Article 5.5:
1. "claim" or "claims" shall mean a claim or claims whether in contract or tort.
2. the "Architect" includes Architect's officers, directors, employees, representatives and consultants.

5.5.2 The Client agrees that any and all claims which the Client has or hereafter may have against the Architect in any way arising out of or related to the Architect's duties and responsibilities pursuant to this Agreement, shall be limited to the amount of \$250,000.

5.6
Toxic or
Hazardous
Substances
or Materials

5.6.1 For the purposes of Article 3.1.3 and Article 5.6:
1. "toxic or hazardous substances or materials" means any solid, liquid, gaseous, thermal or electromagnetic irritant or contaminant and includes, without limitation, pollutants and hazardous or special wastes whether or not defined in any federal, provincial or municipal laws, statutes or regulations;
2. "Architect" includes the Architect's officers, directors, employees, representatives and consultants.

5.6.2 Unless otherwise specifically provided in this Agreement, the Architect shall have no responsibility for:
1. the discovery, reporting, analyses, evaluation, presence, handling, removal or disposal of,
2. the advice of any independent expert selected by the Architect on behalf of the Client and the Contractor under the Contract in respect of, or
3. the exposure of persons, property or the environment to, toxic or hazardous substances or materials in any form at the Place of the Work.

Unless otherwise stated in this Agreement, the Architect's services terminate one year after certification of Substantial Performance of the Work.	5.7.1	5.7 Termination
This Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.	5.7.2	
This Agreement may be terminated by the Client upon at least seven days' written notice to the Architect in the event that the Project is permanently abandoned.	5.7.3	
In the event of termination, the Architect shall be paid within 30 days of the date that an invoice is submitted for all services performed to the effective termination date, together with reimbursable expenses and applicable taxes then due and all termination expenses as defined in paragraph 5.7.5.	5.7.4	
Termination expenses mean expenses directly attributable to suspension or abandonment of the Project or termination of this Agreement for which the Architect is not otherwise compensated, and in addition, an amount computed as a percentage of the total fee for the Architect's basic services and additional services earned to the time of termination, as follows:	5.7.5	
<ol style="list-style-type: none"> 1. twenty percent if suspension or termination occurs during the schematic design phase; or 2. ten percent if suspension or termination occurs during the design development phase; or 3. five percent if suspension or termination occurs during a phase subsequent to the design development phase. 		
Unless otherwise specified, this Agreement shall be governed by the law of the principal place of business of the Architect.	5.8.1	5.8 Law Governing This Agreement
The Client and the Architect, respectively bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Except as otherwise provided herein, neither the Client nor the Architect shall assign, sublet, or transfer an interest in this Agreement without the written consent of the other.	5.9.1	5.9 Successors and Assigns
This Agreement represents the entire and integrated Agreement between the Client and the Architect and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only in writing signed by both Client and Architect.	5.10.1	5.10 Extent of Agreement

Other Conditions

This Agreement entered into as of the day and year first above written.

Client

_____ The Corporation of the Town of Amherstburg
 _____ *Wayne Hurst*
 _____ MAYOR WAYNE HURST
 _____ *Duailoux*
 _____ CLERK DAVE MAILLOUX

Witness

Architect

_____ John G. Hren Architect Inc.
 _____ *John G. Hren*

Witness

_____ *[Signature]* _____ *[Signature]*

Schedule A Fees and Reimbursable Expenses

The Client shall pay fees and reimbursable expenses to the Architect when invoices are submitted as set forth below:

A1 INITIAL PAYMENT

A1.1 The Client shall pay an initial amount of _____ dollars (\$ _____) upon execution of this Agreement. The payment shall be credited to the Client's account at final payment.

A2 FEE FOR SERVICES

A2.1 The fee for the Architect's basic services shall be computed as follows; *(Here, insert basis of fees, including fixed amounts, hourly rates, multiples of direct personnel expense, or percentages, and identify phases to which particular fee calculations apply, if necessary.)*

11% of the Cost of Construction Cost Plus GST.

A2.2 If through no fault of the Architect, the services for the schematic design phase, the design development phase, and the construction documents phase have not been completed within 12 months after the date of this Agreement, or for the remaining phases within 12 months after the date of this Agreement, the amounts, rates, and multiples set forth in this Article applicable to the respective phases of service shall be subject to review and equitable adjustment.

A2.3 When the fee for the Architect's basic services is a fixed amount or percentage-based, it shall be apportioned to the phases of service as follows: *(Include any additional phases as appropriate).*

Schematic Design Phase	percent (12%)
Design Development Phase	percent (13%)
Construction Documents Phase	percent (50%)
Bidding or Negotiation Phase	percent (5%)
Construction Phase - Contract Administration	percent (20%)

Total one hundred percent (100%)

A3 FEES FOR ADDITIONAL SERVICES

A3.1 Fees for the Architect's additional services, ~~excluding~~ ^{including} those provided by the Architect's consultants, shall be computed as follows: *(Here, insert basis of fees, including hourly rates and multiples of direct personnel expense for officers, directors, partners, principals and employees. Identify specific services to which particular fee calculations apply, if necessary.)*

Principal Architect	\$130.00
Staff Architect	\$ 85.00
Technical Staff	\$ 60.00
Engineers	\$ 95.00
Administrative	\$ 30.00

A3.2 Fees for additional services provided by the Architect's consultants shall be as invoiced by the consultant according to the hourly rates and multiples of direct personnel expense set out below plus --- % of the consultant's invoiced amounts. *(Identify specific types of consultants in Article 6, if required.)*

A3.3 Hourly rates of fees in A.3 are subject to review and adjustment annually or as follows: *(Here, insert effective dates or time periods for periodic adjustments in hourly rates.)*

A4 REIMBURSABLE EXPENSES

A.4.1 The percentage added to the reimbursable expenses for administrative services in Article 4.3 shall be 10 %.

Schedule B Additional Services

B1 PROVISION OF ADDITIONAL SERVICES

B1.1 The additional services described in this schedule are not included in the Architect's basic services unless so identified in Article 6. The Architect shall only provide these additional services if authorized by the Client.

B2 PROJECT REPRESENTATION

B2.1 Providing more exhaustive or continuous on site review or representation.
1. If more extensive representation at the site than is described in paragraph 2.6.2.6 is required, the Architect shall provide one or more Project representatives to assist in carrying out such additional site review responsibilities.
2. Such Project representatives shall be selected, employed, and directed by the Architect, and the Architect shall be compensated as agreed by the Client and Architect.

B3 OTHER ADDITIONAL SERVICES

- B3.1 Providing analyses of the Client's needs and programming requirements for the Project.
- B3.2 Providing financial feasibility, Project Budget or other special costing studies.
- B3.3 Providing site evaluations, planning surveys, or comparative studies of prospective sites.
- B3.4 Providing special surveys, environmental studies and submissions and other related services required for approval by authorities having jurisdiction over the Project, except for those set out in paragraph 2.2.4, including submission for zoning changes, variances from by-laws or site plan approvals necessary for proceeding with the Project.
- B3.5 Providing services relating to future facilities, systems and equipment.
- B3.6 Providing services to investigate existing conditions or facilities such as preparing measured drawings or verifying the accuracy of drawings or other information furnished by the Client.
- B3.7 Providing detailed estimates of Construction Costs, detailed quantity surveys, inventories of material and equipment, or analyses of owning and operating costs.
- B3.8 Providing interior design, graphic design, signage and other similar services required for or in connection with the selection, procurement or installation of furniture, furnishings and related equipment.
- B3.9 Providing tenant layout and design services.
- B3.10 Preparing models or architectural renderings specifically commissioned by the Client.
- B3.11 Preparing documents for alternative, separate or sequential bids or providing extra services in connection with bidding, negotiation, or construction prior to the completion of the construction documents phase.
- B3.12 Co-ordinating construction work performed by separate contractors or by the Client's own forces and co-ordinating the services required in connection with construction performed and equipment supplied by the Client.
- B3.13 Providing services in connection with the Work of a construction manager, or separate consultants retained by the Client.
- B3.14 Providing services after the date of Substantial Performance of the Work, except for those described in 2 The Architect's Responsibilities.

- B3.15 Providing services after expiry of the period of one year following the date of Substantial Performance of the Work.
- B3.16 Revising or providing additional drawings, specifications or other documents which are:
1. caused by instructions that are inconsistent with instructions or written approvals previously given by the Client, including revisions made necessary by adjustments in the Client's program or Project Budget;
 2. caused by the enactment or revisions of statutes, regulations, codes or by-laws, subsequent to the preparation of such documents;
 3. caused by an interpretation by the authorities having jurisdiction which differs from the Architect's interpretation of statutes, regulations, codes and by-laws, which difference the Architect could not have reasonably anticipated, or
 4. due to changes required as a result of the Client's failure to render decisions in a timely manner.
- B3.17 Providing services required because of significant changes in the Project including, but not limited to size, quality, complexity, the Client's schedule, or the method of bidding or negotiating and contracting for construction, except for services required under paragraph 2.9.2.
- B3.18 Preparing drawings, specifications and supporting data, evaluating Contractor's proposals, and providing other services in connection with changes to the Project.
- B3.19 Providing services in connection with evaluating substitutions proposed by the Contractor and making subsequent revisions to the drawings, specifications and other documentation resulting from them;
- B3.20 Making investigations, inventories of materials and equipment, valuations and detailed appraisals of existing facilities.
- B3.21 Providing services made necessary by the default of the Contractor, by major defects or deficiencies in the Work of the Contractor, or by failure of performance by either the Client or Contractor under the Contract.
- B3.22 Providing consultation concerning replacement of any work damaged by fire or other cause during construction and furnishing services as may be required in connection with the replacement of such work.
- B3.23 Providing services in evaluating an extensive or unreasonable number of claims submitted by the Contractor or others in connection with the Work.
- B3.24 Preparing record drawings showing changes in the Work made during construction based on marked-up prints, drawings, and other data furnished by the Contractor to the Architect; the accuracy of such information shall be the sole responsibility of the Contractor.
- B3.25 Providing assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance and consultation during operation.
- B3.26 Providing services to the Client in connection with any public hearing, mediation, arbitration proceeding, or legal proceeding.
- B3.27 Providing for services of consultants for other than the architectural, structural, mechanical and electrical engineering portions of the Project provided as a part of the Architect's basic services.
- B3.28 Translating documents into a language other than the language of this Agreement.
- B3.29 Providing or arranging for any services not otherwise included in this Agreement.